

Portugal

Section 1. Respect for the Integrity of the Person, Including Freedom from:

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

The Ministries of Internal Administration and Justice are primarily responsible for internal security. The Ministry of Internal Administration oversees the SEF, the PSP, and the GNR. The SEF has jurisdiction over immigration and border problems. The PSP has jurisdiction in cities, and the GNR has jurisdiction outside cities. The Judiciary Police are responsible for criminal investigations and report to the Ministry of Justice. The IGAI, responsible to the Ministry of Internal Administration, investigates security force killings and evaluates whether they occurred in the line of duty or were otherwise justifiable.

Civilian authorities maintained effective control over the SEF, the PSP, and the GNR, and the government has effective mechanisms to investigate and punish abuse and corruption. An independent ombudsman chosen by parliament and the IGAI investigates complaints of abuse or mistreatment by police. Nongovernmental organizations (NGOs) criticized the slow pace of investigations and the lack of an independent oversight agency to monitor the IGAI and the Ministry of Internal Administration.

Arrest Procedures and Treatment of Detainees

The constitution and law provide detailed guidelines covering all aspects of arrest and custody, and authorities generally followed the guidelines. Persons may be arrested only on a judicial warrant, except that law enforcement officials and citizens may make warrantless arrests when there is probable cause that a crime has just been or is being committed, or that the person to be arrested is an escaped convict or a suspect who escaped from police custody.

Authorities may not hold a suspect for more than 48 hours without bringing him before an investigating judge. Under the law the investigating judge determines whether an arrested person should be detained, released on bail, or released outright. Authorities informed detainees promptly of charges against them.

Investigative detention for most crimes is limited to four months. If authorities do not file a formal charge within that period, they must release the detainee. In cases of serious crimes such as murder, armed robbery, terrorism, violent or organized crime, and of crimes involving more than one suspect, the investigating judge may decide to hold a suspect in detention while the investigation is underway for up to 18 months and up to three years in extraordinary circumstances.

Bail exists, but authorities do not release detainees on their own recognizance. Depending on the severity of the crime, a detainee's release may be subject to various legal conditions.

Detainees have the right to legal counsel from the time of arrest, but police, in particular the Judiciary Police, did not inform detainees of their rights in many cases. If detained persons cannot afford a private lawyer, they only have access to an appointed lawyer at the court hearing before a judge up to 48 hours after the moment of apprehension. The government assumes legal costs for indigent detainees. In 2013 the CPT delegation also met a number of persons, including those detained by the Judiciary Police, who claimed they had not been able to inform a member of their family of their detention.

Pretrial Detention: Lengthy pretrial detention remained a problem. As of September 15, there were 2,293 individuals (16 percent of the prison population) in pretrial detention, a decrease from the previous year. Most pretrial detainees spent six months to a year in incarceration. Observers, including the media, business corporations, and legal observers, estimated the backlog of cases awaiting trial to be at least a year. Lengthy pretrial detention was usually due to lengthy investigations and legal procedures, judicial inefficiency, or staff shortages. Pretrial detention counts against a convicted detainee's prison sentence. If found innocent, a detainee has the right to request compensation.

Amnesty: On December 22, the president granted two pardons and one revocation of the penalty of expulsion from the country to a foreigner. There were 93 requests for amnesty.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, and the government generally respected judicial independence.

Trial Procedures

The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. The law presumes all defendants innocent and provides the right to be informed promptly and in detail of the charges (with free interpretation when necessary). Trials are public and fair. Authorities must bring a suspect in investigative detention to trial within 14 months of being charged formally. If a suspect is not in detention, the law specifies no deadline for going to trial. Jury trials are rare in criminal cases. When the crime is punishable by a prison sentence the maximum limit of which is more than eight years, either the public prosecutor or the defendant may request a jury trial.

Defendants have the right to be present at their trial and to consult upon arrest with an attorney provided at government expense if necessary. Defendants have adequate time and facilities to prepare their defense. They have access to government-held evidence, may confront and question witnesses against them, and present witnesses and evidence on their own behalf. Defendants cannot be compelled to testify or confess guilt. Those convicted have the right of appeal. The law extends these rights to all defendants.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters. Citizens, foreign residents, and organizations have access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation, and they may appeal decisions to the European Court of Human Rights. Besides judicial remedies, administrative recourse exists for alleged wrongs. The government complied with rulings against it in domestic judicial and administrative fora.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination based on race, sex, religion, political opinion, national origin or citizenship, social origin, disability, sexual orientation and/or gender identity, age, language, and HIV-positive status or other communicable diseases, and the government effectively enforced these prohibitions. The procedure to file a complaint of racial discrimination continued to be lengthy and complicated. The complaints system against police officers concerning racist or racially discriminatory acts was not functional, and there was serious underreporting.

Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

The constitution and the law prohibit discrimination based on sexual orientation and gender identity. The law bars lesbian, gay, bisexual, transgender, and intersex couples and single women from receiving medically assisted reproductive health care from government-funded health-care providers.

HIV and AIDS Social Stigma

No information in this sub-section. Please see the full country report for more.